

COTTONWOOD HEIGHTS

RESOLUTION NO. 2012-38

A RESOLUTION APPROVING CONTRACTS WITH JRCA ARCHITECTS INC. FOR SPACE ANALYSIS AND LONG RANGE DEPARTMENT NEEDS ASSESSMENT

WHEREAS, the city council (the "*Council*") of the city of Cottonwood Heights (the "*City*") met in regular session on 31 July 2012 to consider, among other things, approving two work authorization contracts (the "*Contracts*") with JRCA Architects Inc. ("*JRCA*") whereunder JRCA would provide space analysis, long range department needs assessment and related services to the City on the terms and conditions specified in the Contracts; and

WHEREAS, the Council has reviewed the form of the Contracts, photocopies of which are annexed hereto; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the City's entry into the Contracts as proposed;

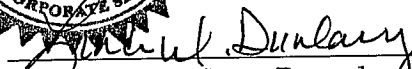
NOW, THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the attached Contracts are hereby approved, and that the City's mayor and recorder are authorized and directed to execute and deliver the Contracts on behalf of the City.

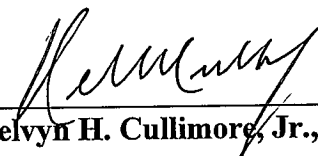
This Resolution, assigned no. 2012-38, shall take effect immediately upon passage.

PASSED AND APPROVED effective 31 July 2012.

COTTONWOOD HEIGHTS CITY COUNCIL




Linda W. Dunlavy, Recorder

By 
Kelvyn H. Cullimore, Jr., Mayor

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton <i>Absent</i>	Yea <input type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 31st day of July 2012.

RECORDED this 31st day of July 2012.

582479.1



WORK AUTHORIZATION

Project: Evaluation of an Existing Building at
7135 South Highland Drive for Use by City
Hall and the Police Department

Date: July 25, 2012

Client: Cottonwood Heights
1265 E. Fort Union Blvd. Ste. 250
Cottonwood Heights, Utah 84047

Representative: Liane Stillman
City Manager

AUTHORIZATION IS REQUESTED FOR THE FOLLOWING WORK TO BE PERFORMED:

Using the previously developed Space Needs Assessment develop a conceptual layout to 'Test Fit' the City's space needs with the existing office building located at 7135 S. Highland Drive. Services will include:

Visit the proposed building and create digital floor plans

Prepare a conceptual relationship plan demonstrating a possible layout to accommodate the Space Needs

Review the Conceptual Plans with the City Staff and Modify as required

REFERENCE DOCUMENTS INCORPORATED:

Garden Level, Main Level, and Second Level 'as-is' floor plans dated 11/17/2008

WORK NOT INCLUDED:

Detailed design and construction drawings or detailed review of the building's existing condition

COMPENSATION:

☒ LUMP SUM ☐ HOURLY PLUS REIMBURSABLE EXPENSES ☐ OTHER

Cost not to exceed **Two Thousand Six Hundred Seventy and 00/100 Dollars (\$2,670.00)**

Client shall pay a retainer fee of **\$0.00**, which fee shall be paid in full prior to commencement of the work herein authorized. Said fee shall be applied to clients account for services provided hereunder.

ESTIMATED START DATE: July 25, 2012

ESTIMATED COMPLETION DATE: August 15, 2012

Client has read and understands the terms and conditions set forth on the reverse side hereof and agrees that such items are hereby incorporated into and made a part of this agreement.

Client _____

_____ Date

JRCA Architects Inc. _____

_____ Date

7.25.2012

ARTICLE 1. DEFINITIONS

- 1.1 **Overtime:** The hourly billing rate for overtime hours worked by an employee on the Project shall be multiplied by 1.5, provided that the CLIENT has authorized such overtime.
- 1.2 **Reimbursable Expenses:** Expenditures made by the ARCHITECT, its employees or its consultants in the interest of the Project. Reimbursable Expenses will be invoiced at the rate of 1.15 times the actual charges. Reimbursable expenses include, but are not limited to:
- 1.2.1 Expenses of transportation, subsistence, and lodging when traveling in connection with the Project.
 - 1.2.2 Expenses of long distance or toll telephone calls, telegrams, messenger services, filed office expenses and fees paid for securing approval of authorities having jurisdiction over the Project.
 - 1.2.3 Expenses of all reproduction, postage and handling of drawings, specifications, reports or other Project related instruments of service of the ARCHITECT.
 - 1.2.4 Expense of preparing perspectives, renderings or models.

ARTICLE 2. COMPENSATION

- 2.1 **Progress Payments:** CLIENT will be invoiced at the end of the first calendar month following the effective date of this Agreement and at the end of each calendar month thereafter. Such invoices shall reflect billing for work performed by ARCHITECT during the month invoiced. Payment on an invoice is due upon receipt of the invoice by the CLIENT. In the event of a dispute regarding an invoice, CLIENT shall pay all undisputed amounts as per this article.
- 2.2 **Late Payment:** ARCHITECT may assess a carrying charge of 1.5 percent per month on progress payments not made within thirty (30) days of the date of the invoice, which charge CLIENT warrants will be paid on demand. ARCHITECT may, in its sole discretion and without notice suspend or terminate its services under this agreement should CLIENT not satisfy any amount invoiced within forty five (45) days of the date of the invoice. ARCHITECT further reserves the right to withhold from CLIENT any instruments of ARCHITECTS service developed for CLIENT under this agreement pending payment on CLIENTS outstanding indebtedness.

ARTICLE 3. SPECIAL TERMS AND CONDITIONS

- 3.1 **Additional Services:** Services not expressly or implicitly included with those herein specified, as determined by ARCHITECT, are not covered by this agreement. Such services may be provided only upon the execution of an amendment in compliance with this Agreement.
- 3.2 **Construction Estimates:** Estimates of construction cost, material quantities and construction time estimates provided by the ARCHITECT, under this Agreement represent its opinion and are subject to change and contingent upon factors over which the ARCHITECT has no control. ARCHITECT does not guarantee the accuracy of such estimates.
- 3.3 **Construction Services:** Except as may be expressly provided otherwise by this Agreement, CLIENT recognizes that ARCHITECTS compensation for any services rendered during construction contemplates (1) construction contract being let and construction completion within the time period set forth herein. Should said period for construction completion be exceeded through no fault of ARCHITECT or more than (1) construction contract be let, ARCHITECTS compensation shall be increased for services rendered in relation to such additional contract(s) or beyond said time period. ARCHITECT is not responsible for the means, methods or sequences of construction nor for the safety of workers or others at the construction site. Construction review services are not exhaustive or continuous and consist of periodic visits to the Project site intended only to determine whether construction is in general conformance or nonperformance of the construction contractor or its subcontractors.
- 3.4 **Termination:** This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail substantially to perform in accordance with this Agreement through no fault of the party initiating the termination. This Agreement may be terminated by CLIENT upon at least seven (7) days written notice to the ARCHITECT in the event that the Project is permanently abandoned. If this Agreement is terminated by no fault of the ARCHITECT, CLIENT shall pay ARCHITECT for services performed and Reimbursable Expenses incurred in accordance with this Agreement and, upon request, a Termination Adjustment equaling fifteen percent (15%) of the estimated fee remaining to be earned at the time of termination to account for ARCHITECTS rescheduling adjustments, reassignment of personnel and related costs due to termination.
- 3.5 **Representatives:** ARCHITECT and CLIENT shall each designate in writing a person(s) authorized to act as their Representative(s). Said Representative shall receive and examine documents submitted by the other party and shall interpret and define policies and render decisions and authorizations promptly to prevent unreasonable delay in the progress of the Project. Said Representatives shall serve as sole intermediaries between ARCHITECT and CLIENT.
- 3.6 **Limitation on Liability:** CLIENT limits ARCHITECTS liability on the Project, which may arise from or be due directly or indirectly to the acts, errors and/or omissions, professional or otherwise, including negligence, of ARCHITECT, its agents, employees or consultants such that ARCHITECTS

total aggregate liability does not exceed ARCHITECTS compensation of \$50,000 whichever is greater. CLIENT shall hold harmless and indemnify ARCHITECT, its agents, employees and consultants from the against say such liability in excess of the limits stated herein. For purposes of computing liability, liability shall include defense costs and attorney's fees.

- 3.7 **Ownership of Documents:** All original plans, specifications, tracings, notes, data and other documents are instruments of professional service and shall be the property of the ARCHITECT. Such instruments are prepared and intended only for use as an integrated set on the particular project and for the limited purpose specified. Modification or use on other projects of such instrument of service, or copies thereof, without ARCHITECTS prior express written consent shall be CLIENTS sole risk. CLIENT shall hold harmless, indemnify and defend ARCHITECT from and against any and all claims and/or liability arising out of any such nonpermissive modification or use.
- 3.8 **Client Information:** ARCHITECT shall have the right to rely on any and all information supplied to ARCHITECT by or through CLIENT, and shall not have a duty to verify the accuracy of such information unless otherwise expressly agreed herein. CLIENT shall hold harmless, indemnify defend ARCHITECT from and against any claims and/or liability related, directly or indirectly, to ARCHITECTS use of or reliance upon any such information.
- 3.9 **Record Drawings:** Any Record Drawings called for herein will be developed based upon bid specifications and plans as modified by actual construction information related to such modifications may be provided by others, including the Construction Contractor(s), who are to document such modifications as part of their performance. ARCHITECT may rely upon such information and is not responsible for the accuracy of the information as it affects the Record Drawings. Record Drawings serve to document substantial alterations between bid plans and actual construction and do not document minor alternation or differences.
- 3.10 **Site Access:** CLIENT shall secure rights of access for ARCHITECT to all properly reasonably necessary to the performance of ARCHITECTS services.

ARTICLE 4. GENERAL TERMS AND CONDITIONS

- 4.1 **Applicable Law:** This agreement shall be interpreted and enforced according to the laws of the State of Utah.
- 4.2 **Assignment; Subcontracting:** Neither CLIENT nor ARCHITECT shall assign its interest in this Agreement without the written consent of the other, except that ARCHITECT may subcontract any portion of this services without such consent. CLIENT is primarily responsible for the compensation of any person(s) providing such subcontracted services and such person(s) shall have a right of action directly against CLIENT for CLIENTS nonpayment. This Agreement shall be binding upon a surety to the benefit of the successors, assigns or any other transferees of the signatories hereto. No rights or benefits are conferred to third parties by this Agreement.
- 4.3 **Force Majeure:** Any delay or default in the performances of any obligation of either party under this Agreement resulting from any cause(s) beyond said party's reasonable control shall not be deemed a breach of this Agreement. The occurrence of any such event shall suspend the obligation of said party as long as performances is delayed or prevented thereby.
- 4.4 **Attorney's Fees:** In the event of CLIENTS default hereunder, the CLIENT agrees to pay all costs incurred by the ARCHITECT as a result of said default, including reasonable attorney's fees, whether incurred through initiation of legal proceedings or otherwise.
- 4.5 **Severability; Waiver:** In the event any term, conditions or other provision(s) of this Agreement shall be held to be invalid or unenforceable, the remaining provisions shall remain valid and binding upon the parties. One or more waiver of any term, condition or other provisions of this Agreement by either party shall not be construed as a waiver of negotiations, representations and/or agreement, written or oral.
- 4.6 **Amendments; Merger:** The Agreement may be amended only by written instrument expressly referring hereto and duly signed by the parties. This Agreement constitutes the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations and/or agreements, written or oral.
- 4.7 **Mediation:** In an effort to resolve any conflicts that arise or following the completion of the project, the CLIENT and the ARCHITECT agree that all disputes between them arising out of or relating to the Agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise. The CLIENT and ARCHITECT further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants to likewise include a similar mediation provision in all agreements with subcontractors, subconsultants, supplier or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.



WORK AUTHORIZATION

Project: Cottonwood Heights City Hall
And Police Space Needs
Assessment

Date: July 25, 2012

Client: Cottonwood Heights
1265 E. Fort Union Blvd. Ste. 250
Cottonwood Heights, Utah 84047

Representative: Liane Stillman
City Manager

AUTHORIZATION IS REQUESTED FOR THE FOLLOWING WORK TO BE PERFORMED:

Develop a Space Needs Assessment for a Proposed New City Hall and Police Facility for Cottonwood Heights City. Services will include the following:

- Conduct Individual Interviews with City Department Heads, Police Chief, and City Manager
- Assemble a Preliminary Space Needs Summary
- Conduct a follow-up Workshop to refine and Adjust the Space Needs Summary
- Prepare a final Space Need Summary

REFERENCE DOCUMENTS INCORPORATED:

None

WORK NOT INCLUDED:

The intent of this study is to provide a Space Needs Summary to use as a guide in evaluating potential remodeling of existing buildings or the development of a new facility for the City Hall and Police operations. It does not include development of detailed Programming data for each space.

COMPENSATION:

☒ **LUMP SUM** ☐ **HOURLY PLUS REIMBURSABLE EXPENSES** ☐ **OTHER**

Cost not to exceed **Two Thousand Eight Hundred Sixty and 00/100 Dollars (\$2,860.00)**

Client shall pay a retainer fee of **\$0.00**, which fee shall be paid in full prior to commencement of the work herein authorized. Said fee shall be applied to clients account for services provided hereunder.

ESTIMATED START DATE: July 25, 2012

ESTIMATED COMPLETION DATE: August 15, 2012

Client has read and understands the terms and conditions set forth on the reverse side hereof and agrees that such items are hereby incorporated into and made a part of this agreement.

Client

JRCA Architects Inc.

Date

7.25.2012

Date

ARTICLE 1. DEFINITIONS

- 1.1 Overtime: The hourly billing rate for overtime hours worked by an employee on the Project shall be multiplied by 1.5, provided that the CLIENT has authorized such overtime.
- 1.2 Reimbursable Expenses: Expenditures made by the ARCHITECT, its employees or its consultants in the interest of the Project. Reimbursable Expenses will be invoiced at the rate of 1.15 times the actual charges. Reimbursable expenses include, but are not limited to:
- 1.2.1 Expenses of transportation, subsistence, and lodging when traveling in connection with the Project.
 - 1.2.2 Expenses of long distance or toll telephone calls, telegrams, messenger services, filed office expenses and fees paid for securing approval of authorities having jurisdiction over the Project.
 - 1.2.3 Expenses of all reproduction, postage and handling of drawings, specifications, reports or other Project related instruments of service of the ARCHITECT.
 - 1.2.4 Expense of preparing perspectives, renderings or models.

ARTICLE 2. COMPENSATION

- 2.1 Progress Payments: CLIENT will be invoiced at the end of the first calendar month following the effective date of this Agreement and at the end of each calendar month thereafter. Such invoices shall reflect billing for work performed by ARCHITECT during the month invoiced. Payment on an invoice is due upon receipt of the invoice by the CLIENT. In the event of a dispute regarding an invoice, CLIENT shall pay all undisputed amounts as per this article.
- 2.2 Late Payment: ARCHITECT may assess a carrying charge of 1.5 percent per month on progress payments not made within thirty (30) days of the date of the invoice, which charge CLIENT warrants will be paid on demand. ARCHITECT may, in its sole discretion and without notice suspend or terminate its services under this agreement should CLIENT not satisfy any amount invoiced within forty five (45) days of the date of the invoice. ARCHITECT further reserves the right to withhold from CLIENT any instruments of ARCHITECTS service developed for CLIENT under this agreement pending payment on CLIENTS outstanding indebtedness.

ARTICLE 3. SPECIAL TERMS AND CONDITIONS

- 3.1 Additional Services: Services not expressly or implicitly included with those herein specified, as determined by ARCHITECT, are not covered by this agreement. Such services may be provided only upon the execution of an amendment in compliance with this Agreement.
- 3.2 Construction Estimates: Estimates of construction cost, material quantities and construction time estimates provided by the ARCHITECT, under this Agreement represent its opinion and are subject to change and contingent upon factors over which the ARCHITECT has no control. ARCHITECT does not guarantee the accuracy of such estimates.
- 3.3 Construction Services: Except as may be expressly provided otherwise by this Agreement, CLIENT recognizes that ARCHITECTS compensation for any services rendered during construction contemplates (1) construction contract being let and construction completion within the time period set forth herein. Should said period for construction completion be exceeded through no fault of ARCHITECT or more than (1) construction contract be let, ARCHITECTS compensation shall be increased for services rendered in relation to such additional contract(s) or beyond said time period. ARCHITECT is not responsible for the means, methods or sequences of construction nor for the safety of workers or others at the construction site. Construction review services are not exhaustive or continuous and consist of periodic visits to the Project site intended only to determine whether construction is in general conformance or nonperformance of the construction contractor or its subcontractors.
- 3.4 Termination: This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail substantially to perform in accordance with this Agreement through no fault of the party initiating the termination. This Agreement may be terminated by CLIENT upon at least seven (7) days written notice to the ARCHITECT in the event that the Project is permanently abandoned. If this Agreement is terminated by no fault of the ARCHITECT, CLIENT shall pay ARCHITECT for services performed and Reimbursable Expenses incurred in accordance with this Agreement and, upon request, a Termination Adjustment equaling fifteen percent (15%) of the estimated fee remaining to be earned at the time of termination to account for ARCHITECTS rescheduling adjustments, reassignment of personnel and related costs due to termination.
- 3.5 Representatives: ARCHITECT and CLIENT shall each designate in writing a person(s) authorized to act as their Representative(s). Said Representative shall receive and examine documents submitted by the other party and shall interpret and define policies and render decisions and authorizations promptly to prevent unreasonable delay in the progress of the Project. Said Representatives shall serve as sole intermediaries between ARCHITECT and CLIENT.
- 3.6 Limitation on Liability: CLIENT limits ARCHITECTS liability on the Project, which may arise from or be due directly or indirectly to the acts, errors and/or omissions, professional or otherwise, including negligence, of ARCHITECT, its agents, employees or consultants such that ARCHITECTS total aggregate liability does not exceed ARCHITECTS compensation of

\$50,000 whichever is greater. CLIENT shall hold harmless and indemnify ARCHITECT, its agents, employees and consultants from the against say such liability in excess of the limits stated herein. For purposes of computing liability, liability shall include defense costs and attorney's fees.

- 3.7 Ownership of Documents: All original plans, specifications, tracings, notes data and other documents are instruments of professional service and shall be the property of the ARCHITECT. Such instruments are prepared and intended only for use as an integrated set on the particular project and for the limited purpose specified. Modification or use on other projects of such instrument of service, or copies thereof, without ARCHITECTS prior express written consent shall be CLIENTS sole risk. CLIENT shall hold harmless, indemnify and defend ARCHITECT from and against any and all claims and/or liability arising out of any such nonpermissive modification or use.
- 3.8 Client Information: ARCHITECT shall have the right to rely on any and all information supplied to ARCHITECT by or through CLIENT, and shall not have a duty to verify the accuracy of such information unless otherwise expressly agreed herein. CLIENT shall hold harmless, indemnify defend ARCHITECT from and against any claims and/or liability related, directly or indirectly, to ARCHITECTS use of or reliance upon any such information.
- 3.9 Record Drawings: Any Record Drawings called for herein will be developed based upon bid specifications and plans as modified by actual construction. Information related to such modifications may be provided by others, including the Construction Contractor(s), who are to document such modifications as part of their performance. ARCHITECT may rely upon such information and is not responsible for the accuracy of the information as it affects the Record Drawings. Record Drawings serve to document substantial alterations between bid plans and actual construction and do not document minor alternation or differences.
- 3.10 Site Access: CLIENT shall secure rights of access for ARCHITECT to all property reasonably necessary to the performance of ARCHITECTS services.

ARTICLE 4. GENERAL TERMS AND CONDITIONS

- 4.1 Applicable Law: This agreement shall be interpreted and enforced according to the laws of the State of Utah.
- 4.2 Assignment; Subcontracting: Neither CLIENT nor ARCHITECT shall assign its interest in this Agreement without the written consent of the other, except that ARCHITECT may subcontract any portion of this services without such consent. CLIENT is primarily responsible for the compensation of any person(s) providing such subcontracted services and such person(s) shall have a right of action directly against CLIENT for CLIENTS nonpayment. This Agreement shall be binding upon a insure to the benefit of the successors, assigns or any other transferees of its signatories hereto. No rights or benefits are conferred to third parties by this Agreement.
- 4.3 Force Majeure: Any delay or default in the performances of any obligation of either party under this Agreement resulting from any cause(s) beyond said party's reasonable control shall not be deemed a breach of this Agreement. The occurrence of any such event shall suspend the obligation of said party as long as performances is delayed or prevented thereby.
- 4.4 Attorney's Fees: In the event of CLIENTS default hereunder, the CLIENT agrees to pay all costs incurred by the ARCHITECT as a result of said default, including reasonable attorney's fees, whether incurred through initiation of legal proceedings or otherwise.
- 4.5 Severability; Waiver: In the event any term, conditions or other provision(s) of this Agreement shall be held to be invalid or unenforceable, the remaining provisions shall remain valid and binding upon the parties. One or more waiver of any term, condition or other provisions of this Agreement by either party shall not be construed as a waiver of negotiations, representations and/or agreement, written or oral.
- 4.6 Amendments; Merger: The Agreement may be amended only by written instrument expressly referring hereto and duly signed by the parties. This Agreement constitutes the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations and/or agreements, written or oral.
- 4.7 Mediation: In an effort to resolve any conflicts that arise or following the completion of the project, the CLIENT and the ARCHITECT agree that all disputes between them arising out of or relating to the Agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise. The CLIENT and ARCHITECT further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants to likewise include a similar mediation provision in all agreements with subcontractors, subconsultants, supplier or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.